

The CURE

Contract User's Resource for Excellence

The "CURE" is a quarterly newsletter of the State Controller's Office

Volume 9, Issue 4

November 2003

News From The SCO A State Controller's Office Update

CCIT MEETING

The November CCIT (Colorado Contract Improvement Team) meeting will be held on Wednesday, November 19th from 9:00 a.m. - 12:00 in Building 100 at Camp George West. Camp George West is located just East of Golden on Old Golden Road. The address is 15055 So. Golden Road. If you have questions about the meeting, please call a member of the Central Contract Unit. A map is located at www.sco.state.co.us/cure.cure.htm.

An agenda is included on page 12.

**READ.... What's
Inside this Issue — A
New Executive
Order & The History**

E-MAIL ADDRESS CHANGES

To make sure you do not miss an issue of the CURE or other important state contract information be sure that you keep your e-mail address current by sending changes to Kevin in the SCO CCU at:
kevin.cruise@state.co.us

Central Approvers Names and Numbers

NAME	PHONE #	FAX #
<u>Department of Personnel & Administration (DPA)</u>		
<u>State Controller's Office (SCO)</u>		
Central Contract Unit:	Phone Number	Fax Number
Phil Holtmann	303-866-3809	303-866-4233
Yvonne Anderson	303-866-2862	303-866-4233
<u>Routing, Distribution and E-mail Updates:</u>		
Kevin Cruise	303-866-2127	303-866-3569
<u>Statutory Violations:</u>		
John Ivy	303-866-3765	303-866-3569
<u>Human Resource Services (DPA/HRS)</u>		
<u>Personal Services Review Program:</u>		
Joi Simpson	303-866-5496	303-866-2458
<u>State Buildings and Real Estate Programs</u>		
Carol Lieber (SBREP)	303-866-3158	303-894-7478
Donna Barr (REP)	303-866-4564	303-866-2201
Clark Bolser (REP)	303-866-4759	303-866-2201
<u>State Purchasing (SPO)</u>		
Kay Kishline	303-866-6100	303-894-7440
Monica Rahman	303-866-6155	303-894-7440
<u>Office of the Attorney General (AGO)</u>		
Robert Bowers	303-866-5027	303-866-4139
Heidi Dineen	303-866-3622	303-866-4139
Bea Pagette	303-866-5227	303-866-4139
Tracy Kinsella (CDOT Attorney)	303-866-5052	
NOTE: You may e-mail any of the above by using the following format: firstname.lastname@state.co.us		



How Did We Get Here?

by Phil Holtmann & Richard Pennington

There were some questions raised by individuals responding to the SCO survey about the identification and purpose of the Colorado Contract Improvement Team (CCIT). Since we have so many new members we thought it would be a good idea to review the history of CCIT, the Central Approval Task Force (CATF), and the Contract Manual.

In 1994, the Department of Natural Resources undertook a reengineering effort that took a close look at the contracting process. A primary concern was the length of time it was taking for contracts to be routed through the system. As a result, the CATF was formed with members from State Purchasing, the Department of Personnel, the Attorney General's Office, and the State Controller's Office. The CATF determined that communication with the agencies was one of the biggest obstacles in the state contracting process and decided to engage state agencies. The Colorado Contract Improvement Team (CCIT) was formed in 1995 as a statewide collaboration to improve the system. The goals of the CATF in forming the CCIT were to get agency input on contracting issues, remove low risk procurements from the contracting process, create a central contract tracking system, develop an effective communication system, provide continual education, and continue to improve the contracting process.

One of the first objectives identified by the CCIT was to revise the contract manual, which was at the time primarily focused on the approval process. There were no model clauses that can be found in Chapter 6 Appendix A of the current manual or any contract management techniques that can be found in Chapter 10 of the current manual. Other than signature authority and insurance, there was no discussion of other key contracting issues, such as intellectual property. At the time there was not much agreement about the scope of a contracts manual. Some preferred very simple guidance. Others thought that there was a need for a more comprehensive resource. As the contract management team moved forward on developing contract management guidelines, CCIT decided it was time to make decisions on an overall contract manual. CCIT opted for development of a more comprehensive manual, complete with model clauses, and an introductory chapter that summarized the entire process. A decision was made to incorporate the contract management guidelines as Chapter 10 of the overall manual.

In August of 1997, the first edition of the Colorado Contract Procedures and Management Manual was published by the State Controller's Office. The manual was revised in January of 1999 and is currently undergoing another revision.

While CCIT made progress in basic contract education and system improvements, a performance audit was underway in 1996 on contract management. The audit recommended development of guidelines for contract administration/management, and development of some training. A team was formed to start developing some recommended guidelines for contract management.

During early 1998, proposals were accepted from various sources concerning contract management training. A decision was made to have the DPA Training Academy conduct the training. Later, a second course was added that was more focused on contract drafting for the employees involved in negotiating and routing contracts for approval.

The CURE was developed by the CATF as a way of communicating with the CCIT members and is published quarterly by Yvonne Anderson of the State Controller's Office. Originally the CURE was titled the "Contract Users Red-Tape Eliminator", but as improvements were made and contracting issues resolved the CURE was renamed the "Contractor's User's Resource for Excellence" and now contains articles written by all of the CATF members that provide specific information about contract issues and changes in the contracting process.

Another key issue was contract-processing time. The (CATF) worked with individuals from COFRS, particularly Dave Cuneo, and developed the CLIN table, the CLI2 table, the CLIV table, and the CERR table. The development of these CORFS tables allowed the State Controller's Office to track CATF contract approval time and with that information establish central approver time standards.

CCIT has remained a means of coordinating policy changes affecting the contracting process. Among the more successful initiatives was the contract waiver process and development of modification policies to eliminate some routine contract documents from central approval. Over the past four years, 38% of the contracts have been removed from central review. Note: The number of contracts that the SCO review have gone up because of the risk assessment review performed on behalf of the AGO.

The following table summarizes the contract processing statistics over the past four years.

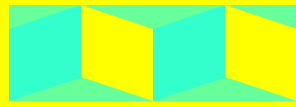
FY	SCO Rev'd	Error %^a	SCO (Days)	Personnel (Days)	AG (Days)	Agency Internal Review (Days)^b	Central Approval (Days)^c	Total (Days)^d
2003	2441 +730	25.1%	3.21	5.21	5.01	40.9	13.7	54.6
2002	2743	25.1%	4.19	3.37	6.82	38.9	9.2	48.1
2001	3555	24.6%	4.39	1.38	3.73	30.9	11.6	42.5
2000	3966	19.7%	7.6	1.4	5.21	33.1	15.2	48.3

^a Error rate does not include an estimated additional 10-15% of contracts requiring clarification by agencies.

^b Actual agency average review times exceed these, as not all agencies use COFRS to track and manage their internal review process.

^c These averages include the time from first receipt through final approval, and would include time required for agencies to respond to errors.

^d These times will not equal the sum of SCO, Personnel, and AG days, because different contracts require some but not all approvals, and some other approval offices (e.g. State Buildings and Real Estate Programs) are included in the overall central approval averages.



A New Executive Order Regarding Leasing - by Donna Barr

On August 26th, Governor Owens signed Executive Order D 016 03 regarding Centralized Leasing Procedures for state agencies and institutions. Briefly, this order, (i) directs the Department of Personnel & Administration to issue a new Request for Proposals (RFP) for contracted strategic planning and brokerage lease management services for the Denver Metro area, (ii) directs that until a strategic plan is developed, executive branch agencies (including higher education institutions) shall not enter into leases for office space or otherwise acquire leased or owned space, including lease renewals, in the Denver metro area unless written authorization is granted by OSPB or CCHE, and (iii) directs that a new centralized policy be developed for more efficient, effective, and economical space acquisition by state agencies and institutions.

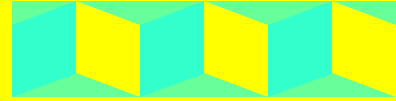
Many states now require brokerage firms to provide strategic consulting services along with tenant representation and other lease and project management services. A new RFP was issued on October 31st that includes strategic planning services for the capitol complex and the Denver metro area along with buyer/tenant representation services, and other lease management functions such as active pursuit of opportunities for cost reduction.

The current contract for brokerage services for the Denver metro area with CPC Corporate Planners and Coordinators, Inc. will remain in effect to assist with lease transactions that are approved by OSPB or CCHE. The new RFP requests proposals for commencement of strategic planning services in January 2004 with the successful offeror to complete the strategic plan by July 1, 2004 and commence buyer/tenant representation services and other lease management functions effective July 1, 2004.

In order to allow time for selection of a brokerage firm through the RFP process and development of an initial strategic plan for space occupancy within the capitol complex and the Denver metro area, space acquisition in the Denver metro area has been deferred until the strategic plan is completed on or about July 1, 2004. In the meantime OSPB, CCHE and DPA will make every effort to accommodate space needs that will not compromise efforts for strategic planning or which should be accomplished to maximize market opportunities. This will enable future significant space needs to be incorporated into the strategic planning process.

OSPB, CCHE and DPA will jointly develop a framework for a more efficient, effective, economical, coordinated and centralized space acquisition and leasing program for state agency and institutional space needs. This program will (i) include procedures and authority for approval of all executive branch and higher education space requests, (ii) require DPA or its designees to negotiate all lease agreements on behalf of state agencies and institutions, and (iii) define required documentation and justification for space acquisition requests. The centralization of the approval and negotiation of lease agreements and other methods of space acquisition will result in consistency and uniformity in dealing with potential lessors and tenant agencies. It will allow the state to maximize agency use of state-owned and leased space and to consider opportunities for collocation and cost reduction.

Executive Order on Leasing - Article continuation



During the transition period, requests to proceed with leasing and other space acquisition requests should be directed to Donna Barr, Real Estate Asset Manager, State Buildings and Real Estate Programs (SBREP) at donna.barr@state.co.us. Donna may also be contacted by phone at 303-866-4564. Donna will coordinate these requests with OSPB and CCHE to assure the least disruption possible for state agencies and institutions while achieving the objectives of the Executive Order.

FAQ's Regarding the Executive Order

Is all leasing prohibited during the deferment period?

Answer: No. First of all, remember that the deferment period applies only to leases in the Denver Metro area. When lease expiration dates occur before the end of the current fiscal year or when the lease in question is for a unique use (such as an air pollution monitoring station) exemptions will likely be granted. SBREP will work with each agency to assist with leasing needs as these changes take place. OSPB and CCHE have already exempted several lease transactions. The primary goal of the deferment period is to facilitate inclusion of space needs into a long-term strategic planning process.

How do we obtain an exemption?

Answer: Contact Donna Barr at donna.barr@state.co.us or by phone at 303-866-4564. SBREP will be sending recommendations for exemption to OSPB and CCHE. Please note that neither SBREP nor the State Controller's Office will approve leases during the deferment period unless an exemption has been granted by OSPB or CCHE. The standard CCHE lease approval form will also serve as an exemption.

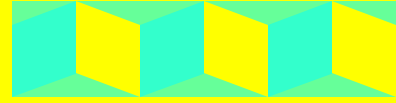
Will agency representatives be included in the RFP selection process?

Answer: Yes, representatives from ten agencies and institutions will be on the evaluation team.

Will agency representatives be included in the Centralized Leasing policy development?

Answer: Yes, DPA will look for involvement from various agencies and institutions as these new policies and processes are developed. The successful offeror in the RFP process will also assist with this policy development.

Executive Order on Leasing - Article continuation



Will agency representatives be included in the Centralized Leasing policy development?

Answer: Yes, DPA will look for involvement from various agencies and institutions as these new policies and processes are developed. The successful offeror in the RFP process will also assist with this policy development.

Who should my agency contact about new or continued leasing needs in the Denver Metro area?

Answer: Initiation of all future lease requests should begin with SBREP to allow us to help manage and direct the process during the deferment period of the Executive Order. If you are presented with a Tenant Agency Authorization Letter from CPC, please obtain an exemption first before proceeding with the engagement.

A BIG WELCOME TO...

Heidi Dineen

Heidi Dineen joined the Attorney General's Office a year ago and is primarily responsible for the State's compliance with the Health Insurance Portability and Accountability Act (HIPAA). She is now also reviewing and approving contracts for the AG Office in an effort to improve turn around time and provide backup when Robert Bowers is out of the office. Prior to joining the AG's Office, Heidi was an attorney in private practice in Denver and specialized in employee health and welfare plans. She also has extensive experience with contracts, business transactions and mergers and acquisitions.

Heidi will be attending the CCIT meeting, so please take a moment to say hello to her.

PERSONAL SERVICES UPDATE

**by Joi Simpson,
Personal Services Contracts Specialist**

WAIVER PILOT PROGRAM

The waiver pilot program became effective on October 1, 2003. The purpose of this pilot is to evaluate the effectiveness of expanding the current waiver process and accomplish greater efficiencies in the personal services review process while maintaining the integrity of the State's personnel system. The challenge is to define the right checks and balances in this process to ensure the proper review and approvals continue to take place and that services being outsourced are being evaluated by the appropriate HR staff.

In November, the Department of Personnel and Administration/Division of Human Resources (DPA/DHR) will conduct a forum with all participating departments to discuss and resolve issues that have been identified in this process. The discussion will largely revolve around department HR staff authority for establishing internal departmental waivers and what those limitations should or should not be, how to establish those waivers, and clarifying pilot requirements.

A tool will be created to evaluate what is working/not working through out the next 11 months. Candid feedback from departments will be crucial to ensuring the success of this pilot. Should this process foster greater efficiencies and prove to maintain the integrity of the state personnel system, this could become a more meaningful process for conducting personal services review.

Both the evaluation tool and any program changes will be posted on the website <http://www.colorado.gov/dpa/dhr/oversight/contracts.htm> and through other methods of communication. To date, 14 departments in both general government and institutions of higher education have been approved to participate in this process. Departments have until January 31, 2004 to apply for participation.

AUDIT PILOT

In addition to the pilot waiver program, DPA/DHR is working in concert with the State Purchasing Office to conduct audits of agency personal services contracting activity. Both entities request similar information in the review process. To create a more efficient process, both for the department being audited and DPA, this pilot has been implemented to evaluate the effectiveness of a dual review. The State Purchasing Office will maintain its current practice of peer reviews, while DPA/DHR simultaneously conducts its audit.



Personal Services Article Continuation

The general purpose of the HR review is:

Determine if the department's internal administrative controls are adequate, effective, and efficient.
Determine if the department's human resource activities comply with personnel rules, procedures, state and federal laws, and with good HR business practices.

Evaluate operational procedures, processes, and work methods to determine whether results are consistent with established guidelines.

Identify and recognize 'best practices' in human resource management.

Identify system and statutory issues and recommend changes that will improve the quality and level of service provided to departments and employees of the state personnel system.

In November, the Department of Labor and Employment will be our first joint venture. As we move through this process, audit criteria and measures will be posted on the website, along with the audit schedule.

Civil Service Reform Update

The Governor's Commission on Civil Service Reform report is now available on the web. The recommendations from the Commission that concern contracting include the following:

1. Modify the constitution to specifically authorize contracting, regardless of whether a state employee has ever performed the function. In addition, add a provision that prevents any adverse effects on certified state employees as a result of a contract.

Leave current statutory language in place until the General Assembly can develop the standards for outsourcing functions of state government.

The Commission also notes that outsourcing efforts should be linked to the formation of performance-based management and cost accounting expertise to allow for competitive strategic management. To read more on Civil Service reform go to <http://www.colorado.gov/dpa/csdc/index.htm>.

For further information on any of these initiatives, please contact Joi Simpson at 303.866.5496 or joi.simpson@state.co.us.



AG Notes

How to Identify your Contractor

By Robert Bowers, Attorney General's Office

Recently, there have been a fair number of contracts and/or amendments presented for central approval that contain errors of one sort or another relating to the contractor's name. Some of the problems the Department of Law has recently been asked to approve as "legally sufficient" include:

1) Incomplete contractor names. These errors usually show up in amendments, option letters, change order letters, and other contract modification tools. In this regard, an agency will abbreviate a contractor's name by dropping off the "Inc." or "Corp." designation (i.e. "ABC Company" instead of "ABC Company, Inc.") The "Inc." or "Corp." is almost always a part of the contractor's name and is necessary to properly identify the contractor. Another variation on this theme is when the agency uses only the contractor's trade name instead of the longer (and better) formal name with tradename designation (i.e. ABC Company d/b/a "Tradename Company").

Best contracting practice requires that an agency determine the contractor's proper name before the original contract is drafted. This is done by reviewing the Secretary of State's "Search Business Entity" website. Do not rely on contractors to tell you their proper name - they usually have it wrong. The Search Business Entity website for the Secretary of State is found at:

<http://www.sos.state.co.us/pubs/business/main.htm>. It is easy and free to use.

Later, when modifying the original contract, you must use the same name (verbatim) for the contractor as was used in the original contract. The only exception to this is when a formal name-change has occurred (Once again you must check with the Secretary of State to determine if a formal name-change has occurred). Finally, to help the contract speed through the central approval process, you might want to consider printing the Secretary of State's business name information and route it with the contract. This one page document tells the Department of Law the contractor's correct name and standing to do business in the State (very helpful in the review process).

A G Notes continued...

3) Entity name differences. These errors usually show up when one reviews the first page against the signature page. Often times, there will be variations in the contractor's name between these two pages. These variation are problematic, even when it is something as "minor" as the failure to use the "Inc." on the signature page (as opposed to the first page). The contractor's name should be exactly the same whenever it is used in the contract, including the first paragraph and the signature page. The easiest way to solve this problem is for the agency to insert the contractor's name immediately above its signature block. Do not let the contractor fill this in (If you do, chances are it will be wrong).

Along these same lines, the Department of Law often finds minor differences in the contractor's name between the original contract and a subsequent amendment. Once again, go back to the original contract and copy that name verbatim. Any variation causes the central approvers to think a novation has occurred.

With the above three errors identified please note that the Department of Law considers this to be fair warning. In the future, contracts **will not be approved** when the above-identified errors are discovered.

IMPORTANT REMINDERS...

State Controller Policy Updates (effective 2/10/2003): The State Controller has updated all the policies related to State Contracting. The policies are: Advance Payments to Vendors, State Contract Modifications, Contract Dating, Executing State Contracts with a Fiscal Year Value of \$50,000 or Less, and Mixed Procurements.

The policies are conveniently located on the SCO website. All contract personnel are encouraged to review the policies and the requirements. If you need assistance or have questions, please feel free to call Phil Holtmann or Yvonne Anderson.

AN IMPORTANT TRAINING NOTICE: The Contract Management and Contract Writing courses sponsored by the State's Training Academy are currently **ON HOLD**. However, the GOOD NEWS.... The Academy hopes to roll out the new class beginning in January 2004. For more information, please contact our Training Specialist, Suzanne Woodruff-Regan at (303) 866-3535.

On the World Wide Web at :

www.sco.state.co.us/

CONTRACT PROCEDURES AND MANAGEMENT
MANUAL

contract/contractprocedures.htm

CURE
cure/cure.htm

PERSONAL SERVICES REVIEW PROGRAM
AND RELATED FORMS

www.state.co.us/hrs/contracts/index.htm



CCIT (Colorado Contract Improvement Team) Meeting

Wednesday, November 19, 2003

Camp George West – Golden, Colorado – Building 100

Agenda

9:00—9:10 am.....Welcome.....Phil Holtmann, SCO

9:10—10:00 am.....Governor's Executive Order on Centralized Leasing & Procedures
by Donna Barr & Clark Bolser
(Real Estate Programs)

10:00-10:15 am.....Training Update.....Suzanne Woodruff-Regan
(State Training Academy)

10:15—10:30 am.....B R E A K.....

10:30—10:45 am.....CCIT Re-structure & Training.....
by Vicki Smith, State Contracting Advisory Team

10:45-11:00 am.....CCIT Floating Award.....Donna Barr, (RES)

11:00-11:30 am.....HIPPA Update.....Heidi Dineen, (AGO)

11:30—12:00 noonNew Business & Questions.....

